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STATE CAPITOL  
PHOENIX, ARIZONA

August 2, 1966

DEPARTMENT OF LAW LETTER OPINION NO. 66-32-L (R-100)

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REQUESTED BY: JOHN O. GRAHAM  
Department of Public Welfare

QUESTION: Can funds appropriated to the Department of Public Welfare for blind services be used to pay the portion of the costs of eye surgery for individuals whose remaining surgical expenses are payable out of the federal and state programs for medical assistance for aged?

ANSWER: Yes.

Among the powers and duties of the Department of Public Welfare is the duty to:

"4. Develop agencies it deems necessary for providing services to the blind including prevention of blindness, the location of blind persons, medical service for eye conditions, vocational guidance and training of the blind, placement of blind persons in employment, instruction of the adult blind persons in their homes, and other social services for blind persons, or cooperate with similar agencies already established."  
(Emphasis added). (A.R.S. Sec. 46-134)

The 1966 general appropriation act, subdivision 39, appropriates \$187,020.00 for blind services. (Laws 1966, Ch. 119). This appropriation item, in prior years, has been used to pay for the services rendered by the Department pursuant to the provision quoted above, including the cost of medical service for eye conditions.

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By Laws 1965, Ch. 53, and Laws 1966, Ch. 90, the Legislature adopted a state program of medical assistance for those persons age 65 and over. This program provides in essence for payment by the state of the premium for the federal medicare health insurance for all welfare recipients, and for payment by the state of certain expenses of hospitalization and outpatient treatment for eligible and needy aged, which expenses are not covered by the federal program.

The Department of Public Welfare anticipates that certain persons, age 65 and over, will be eligible simultaneously for the state and federal medicare programs as well as for blind services as heretofore provided by the state. Thus, a person age 65 or over requiring eye surgery for prevention of blindness might be eligible for payment of the total expenses of such surgery by the Blind Services Division of the Department of Public Welfare, as well as being eligible for having most of the costs of such surgery paid by the federal and state medical assistance for the aged programs. Your question is, in such instances, may those costs which are not covered by the combined federal-state programs for medical assistance for the aged be paid out of the blind services appropriation.

There is no provision in the state or federal statutes for medical assistance to the aged which prohibits the payment by the state under other programs of any costs of medical services which are not covered by the programs for medical assistance to the aged.

Accordingly, it is our opinion that remaining costs of eye surgery on eligible persons which are unpaid by the combined federal-state medicare program, may be paid out of the blind services appropriation, subject to availability of funds.

There is a question, however, in the event an applicant is provided "blind services" by the Department, whether he is then eligible for the state supplementary medical assistance program.

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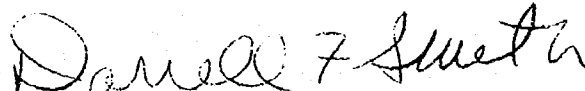
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The eligibility requirements for the state supplementary medical assistance program include a requirement that the applicant "is not receiving other public assistance by virtue of any provisions of this title." (A.R.S. Sec. 46-261.02 (6)). "Assistance" is defined in A.R.S. Sec. 46-101(2) as "payments in cash or kind to or in behalf of a person or persons in need as provided for in this title." "Services" is defined in A.R.S. Sec. 46-101(9) as including "social casework, rehabilitation counseling and similar services, other than money payments, rendered to a person or persons in need as provided for in this title." The Department has interpreted services to the blind, including medical services for eye conditions, as constituting "services" rather than "assistance".

An administrative interpretation applied for years will be given weight in construing a statute. (Alvord v. State Tax Commission, 69 Ariz. 287, 213 P.2d 363; Police Pension Board v. Warren, 97 Ariz. 180, 398 P.2d 892, rehearing denied 97 Ariz. 301, 400 P.2d 105).

Therefore, it is our opinion that the furnishing by the Department of blind services, including a portion of the cost of eye surgery, does not render an otherwise qualified applicant ineligible for supplementary medical assistance under A.R.S. Sec. 46-261.01 and Sec. 46-261.02.

Respectfully submitted,



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The Attorney General

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